



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/674,834

09/30/2003

Rene Bitsch

M61.12-0531

4476

27366

7590

04/10/2008

WESTMAN CHAMPLIN (MICROSOFT CORPORATION)

SUITE 1400

900 SECOND AVENUE SOUTH

MINNEAPOLIS, MN 55402-3319

EXAMINER

LY, ANH

ART UNIT

PAPER NUMBER

2162

MAIL DATE

DELIVERY MODE

04/10/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 10/674,834	<b>Applicant(s)</b> BITSCH ET AL.	
	<b>Examiner</b> ANH LY	<b>Art Unit</b> 2162	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 March 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: 1,4-19 and 41.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

/JEAN B. FLEURANTIN/  
Primary Examiner, Art Unit 2162

Continuation of 11. does NOT place the application in condition for allowance because:

The prior art of record teaches the claimed limitations as indicated in the previous Office action.

Applicant argued that, "There is no teaching in Sugimoto that such identifier information is text;" (page 9, 3<sup>rd</sup> paragraph, in the remarks)

In response to Appellant's arguments, Examiner respectfully disagrees as Sugimoto teaches the controller is configured so that it compares/matches an identifier containing the label information and when those two identifiers agree, matching then using that label information to create a new label or label image. And also, the identifier stored in this registry is compared against the sponsor identifier in the label information when new label information is introduced, and a determination is made as to whether or not that label is to be used. And when these two identifiers match, the notification information display apparatus displays that label. If the two identifiers do not match, the display of that label is disabled (col. 16, lines 22-30; also see col. 4, lines 27-40 and col. 14, lines 8-12).

Applicant argued that, "receiving data at the interface indicating how the new label is to be used" (page 10, 1<sup>st</sup> and 2<sup>nd</sup> paragraphs, in the remarks).

In response to Appellant's arguments, Examiner respectfully disagrees as Sugimoto teaches display apparatus can be sent, received, transmitted notification information or message (the notification information display apparatus is configured so that terminal specifying information for specifying a given notification information display apparatus can be sent to another notification information display apparatus with prescribed timing, and so that, based on terminal specifying information received from another notification information display apparatus, a list of other notification information display apparatuses to which the given notification information display apparatus is capable of transmitting message information can be displayed, inclusive of a transmit enablement display) dialog box such as pop-up or pull-down menu for selection how the input to be processed or used (fig. 2, items 210 and 211; col. 4, lines 50-67 and col. 5, lines 1-8 and col. 9, lines 30-42 and col. 13, lines 5-32 and col. 18, lines 22-67).

Applicant argued that, Sugimoto and VanDenAvond are combined, they not render obvious each claimed limitation." (page 11, 1<sup>st</sup>, 2<sup>nd</sup> and 4<sup>th</sup> paragraphs, in the remarks).

In response to Appellant's arguments, Examiner respectfully disagrees.

The examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Sugimoto and VanDenAvond are from the same field of endeavor and both are directed to using user interface to receive input information for managing label. One having ordinary skill in the art would have found it motivated to combine the teachings of Sugimoto and VanDenAvond because that would provide Sugimoto's system having capability of ensuring compliance with label thereby enabling user to have a significant challenge for organization and eliminating redundancies and inefficiencies processes (see VanDenAvond's paragraphs 0003 and 0009). Also, VanDenAvond teaches ID of the selected label as shown in fig. 4, paragraphs 0026, 0047 and 0052 and 0056). Moreover, the examiner kindly submits that the applicants misread the applicable references used in the last office action. However, when read and analyzed in light of the specification, the invention as claimed does not support applicant's assertions. Actually, applicants are interpreting the claims very narrow without considering the broad teaching of the references used in the rejections. Additionally, it is important to note that the examiner interpretation of the claims, wherein, the examiner explicitly stated passages in the cited references which were not even addressed. The aforementioned assertion wherein all the limitations are not taught or suggested by the prior of record, was unsupported by objective factual evidence and was not found to be substantial evidentiary value. The examiner has provided in the last office action, a convincing one of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the cited references. Applicants are reminded that 37 CFR 1.111(b) states, a general allegation that the claims define a patentable invention without specifically printing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section. Therefore, the applicants have failed to provide prima facie evidence how the language of the claims patentably distinguished them from the cited references. Hence, the applicants' assertions are just mere allegation with no supported fact. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

For the above reasons, Examiner believed that rejection of the last Office action was proper. Thus, the Examiner maintains the rejection. .